

## Remarks

Claims 1 to 27 are pending in the application; claims 1 to 3 are rejected; and claims 4 to 27 are withdrawn from consideration.

### Rejection Under 35 U.S.C. §102

Claims 1 to 3 are rejected under 35 U.S.C. §102(b) as being anticipated by *Van Den Berg et al.*, U.S. Patent 7,720,078, and specifically, Figs. 3 to 5 and 13a (Action, p. 2). To maintain a rejection under 35 U.S.C. §102(b), all of the elements of each claim must be disclosed in a single reference. The test for anticipation requires a strict, not substantial, identity of corresponding claim elements. *Finisar Corp. v. DirecTV Group, Inc.*, 523 F.3d 1323, 1334-35, 2008 U.S. Appl. LEXIS 8404, 27-28 (Fed. Cir. 2008). That standard has not been met in the present rejection.

### Allowability of the Claims

Applicants respectfully disagree with the examiner's interpretation of *Van Den Berg et al.*'s Figs. 3 to 5 and 13a. Those figures fail to disclose a center area and a substantially concentric and surrounding loafing area, with at least one milking area arranged radially outwardly of the loafing area. Figs. 3 to 5 of *Van Den Berg et al.* illustrates a rotary milking parlor (col. 27, lines 57 to 64), and it has no center area surrounded by a concentric loafing area. Further, the rotary platform is not a milking area extending radially outward from a loafing area.

Fig. 13a is a detailed view of a portion of the rotary milking platform with robot arms positioned above the platform. (Col. 29, lines 4 to 7.) Again, this is not a disclosure of a center area, concentric loafing area, and a radially outwardly extending milking area, as recited in independent claim 1. There is no strict or even substantial identity of claim elements disclosed in *Van Den Berg et al.*, and there is no anticipation of independent claim 1 or its dependent claims 2 and 3.

Applicant: Osthues et al.  
Application No.: 10/592,907

Moreover, claims 2 and 3 recite a driving device in combination with the elements of claim 1. Therefore, claims 2 and 3 are not anticipated for this additional reason.

**Rejoinder of Claims 4 to 27 Because Generic Claim 1 is Allowable**

Claims 4 to 27 depend from claim 1, and were not considered because of a February 10, 2009 election requirement. As stated in the February 10, 2009 election requirement,

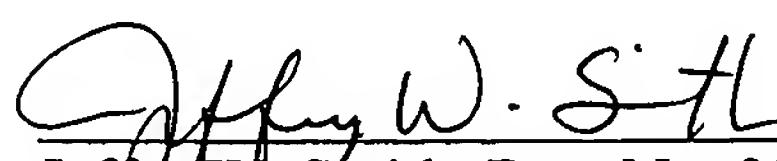
Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP §809.02(a).

As explained above, generic claim 1 is allowable. Therefore, Applicants respectfully submit that claims 4 to 27, which depend from allowable claim 1, are entitled to consideration, and should be rejoined to the application. M.P.E.P. §821.04.

**Conclusion**

For the foregoing reasons, claims 1 to 27 are allowable, and Applicants respectfully request that this case be allowed.

Respectfully submitted,

  
Jeffry W. Smith, Reg. No. 33455  
Attorney for Applicant  
SMITH LAW OFFICE  
8000 Excelsior Drive, Suite 301  
Madison, WI 53717  
(608) 824-8300